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Report of the Secretary-General on the request of Nepal for United Nations assistance in support of its peace process

I. Introduction

1. The present report is submitted pursuant to Security Council resolution 1796 (2008), by which the Security Council, following the request of the Government of Nepal and on the basis of the recommendation of the Secretary-General, renewed the mandate of the United Nations Mission in Nepal (UNMIN), as set out in resolution 1740 (2007), until 23 July 2008. UNMIN was established as a special political mission with a mandate to monitor the management of arms and armed personnel of the Communist Party of Nepal (Maoist) (CPN (M)) and the Nepal Army, assist in monitoring ceasefire arrangements, provide technical support for the conduct of the election of a Constituent Assembly in a free and fair atmosphere and provide a small team of electoral monitors.

2. This report reviews progress in the peace process and the implementation of the mandate of UNMIN since my report to the Council of 12 May 2008 (S/2008/313).

II. Progress of the peace process

3. The convening on 28 May of the democratically elected Constituent Assembly was a milestone in the peace process in Nepal. The Assembly is to draft a new Constitution within the next two years and will also act as the legislature during this transitional period. At the first session the Assembly members present voted by 560 votes to 4 to end the 239-year-old monarchy of Nepal and to implement a federal democratic republic. A constitutional amendment was also adopted creating the posts of President and Vice-President. The former king, Gyanendra Shah, was afforded all the rights and responsibilities of any Nepali citizen and given 15 days to vacate the Narayanhiti Palace in central Kathmandu, which he did on 11 June.

4. The republic was established peacefully amid public celebrations, apart from some minor incidents as a result of improvised explosive devices detonated at the Birendra International Convention Centre, the venue of the Assembly, and at other locations in Kathmandu, allegedly by Hindu fundamentalist groups, in the week when the Assembly's inaugural session was held.

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5. In my previous report I noted that, although the members of the Assembly had been elected, significant challenges remained, including agreement on the basis for the formation of a new government. Following the announcement by the Election Commission on 8 May of the final results of the Assembly election, the three largest parties, CPN (M), the Nepali Congress (NC) and the Communist Party of Nepal (Unified Marxist-Leninist) (UML), started negotiations on the formation of a new government. The Interim Constitution emphasizes the importance of governing through consensus. All major political parties agree that since the Maoists are the largest party in the Assembly they have the mandate to lead the government, but the other major parties, particularly NC, UML and the Madhesi People's Rights Forum (MPRF), have set a number of conditions for their participation in or support for a Maoist-led government.

6. Some important impediments to forming a new government were removed on 25 June when the Seven-Party Alliance signed an important agreement (Agreement between the political parties to amend the Constitution and take forward the peace process), which addresses several issues regarding the peace process. At the next Assembly meeting held on 26 June, the Prime Minister, Girija Prasad Koirala, announced his resignation, which is expected to be formally submitted once a President has been elected, and called on the Maoists to form a government. On the same date, the names of the 26 Assembly members to be nominated by the Council of Ministers were submitted by the political parties among whom they had been allocated, on the basis of a political understanding reflecting the strength of parties in the Assembly.

7. The Council of Ministers on 25 June endorsed a bill aimed at the implementation of several key elements of the Agreement through amendments to the Interim Constitution. The bill would remove reference to the Seven-Party Alliance and extend the commitment to cooperation to other political parties represented in the Assembly. It would provide for the appointment and removal of the government by a simple majority of Assembly members, instead of a two-thirds majority. The President would also be elected by a simple majority if consensus could not be reached. Further amendments provide for the leader of the opposition party to be included on the Constitutional Council; however, the political parties are divided as to whether the leader of the opposition should also be a member of the National Security Council.

8. The Agreement provides for the time-bound resolution of some key issues connected with the peace process. It requires termination within 15 days of the paramilitary functioning and activities of the Maoist Young Communist League (YCL), which CPN (M) has indicated will fully comply with the laws of the land. The Maoists are also required to return all seized property within the same time frame, after which legal action will be taken. The Agreement recommits the parties to the establishment within one month of several commissions, including a National Peace and Rehabilitation Commission, a Truth and Reconciliation Commission, a High-Level Commission for Restructuring the State, a Commission to Investigate the Disappeared, and a Commission on Land Reform.

9. A key issue in the negotiations leading to the Agreement was the integration, rehabilitation and management of arms and the confinement of Maoist army personnel to cantonments. The Agreement requires the reconstitution of the special committee, provided for in the Comprehensive Peace Agreement and in article 146

of the Interim Constitution, to include representatives of political parties represented in the Assembly. The special committee would start work within 15 days of the formation of the Council of Ministers with a time frame of six months, beyond which the country would bear no responsibility for verified combatants who have not been integrated or rehabilitated. Verified combatants would have a choice between possible integration into security bodies "after fulfilling the standard requirements", and an economic package and other alternatives for rehabilitation. Until integration and rehabilitation are complete, Maoist army personnel and weapons would be under the supervision, control and direction of the special committee, and from the beginning of the process the Maoist combatants would have no involvement with any political organization, having to opt for either political or military responsibilities. The Agreement provides that a request will be made for the United Nations to continue for a further six months "its current work of monitoring the management of arms and armies" in accordance with the terms of the Agreement on Monitoring the Management of Arms and Armies.

10. The negotiation of the Agreement and the consequent amendments to the Interim Constitution have involved significant compromises among the three largest parties, and were not easy to achieve. Full consensus was not reached, especially with regard to the allocation of major posts among potential coalition parties and agreement on candidates who could be elected by consensus. The Nepali Congress has insisted that, as the second-largest party, it should be able to nominate its candidate to the presidency, and that it may otherwise remain in opposition. The newly elected Madhesi parties, which were not included in the negotiations, prevented the tabling of the bill at the Assembly meeting on 28 June, when they disrupted the proceedings. They demanded that commitments made to them, notably in the agreement of 28 February between the Government and the United Democratic Madhesi Front, should be reflected in constitutional amendments. Their disruption of the Assembly sessions continued in the following days. Meanwhile, following meetings between leaders of CPN (M), NC and UML with the Madhesi parties, the three major parties established a task force to draft a supplementary bill containing constitutional amendments aimed at addressing key Madhesi concerns.

11. Some progress has been made in establishing committees to handle the regular business of the Assembly and to oversee the drafting of the rules of procedure for its dual functions of drafting a new constitution and acting as a legislature, but the substantive work of the Assembly has yet to commence. Newly elected members of the Assembly, in which 25 political parties are represented, have begun to question their relevancy as negotiations have been conducted principally among the three largest parties and other members of the Seven-Party Alliance.

12. The delays in political negotiations have also had a negative impact on the work of the interim Government, the functioning of which has been affected not only by the resignation of the UML ministers in April but also by a similar decision of the Maoist ministers in June. The Government is facing urgent challenges, including the preparation of the budget for the next fiscal year, which must be submitted by mid-July. Other challenges include the recent rise in fuel prices, food shortages in remotely located communities and delays in the delivery of educational materials to schools, all of which require immediate attention as protests grow around the country.

13. As I noted in my previous report, many of the commitments in the Comprehensive Peace Agreement, the 23-point agreement of 23 December 2007 and other agreements remain unfulfilled. Of particular concern is the fact that no progress was made during this period regarding the discharge from the Maoist cantonments of minors and others found ineligible by UNMIN verification. The Maoist leadership maintains that it remains committed to their discharge as soon as a new government is in office.

III. Status of the United Nations Mission in Nepal

14. After the successful completion of the election on 10 April, including repolling in 106 polling centres, electoral staff were withdrawn from the districts and regions, and the Electoral Assistance Office closed on 31 May. The number of arms monitors has declined, as tours of duty have come to an end: as of 30 June, there were 155 arms monitors remaining out of the authorized strength of 186. At this date, UNMIN overall staffing was 802 out of the authorized 1,045 personnel. In preparation for the end of the mandate of UNMIN on 23 July, an end-of-mission task force was established in May with two main objectives, namely, (a) to ensure an effective transfer of residual tasks to the United Nations system in Nepal and (b) to assist staff, both national and international, to apply for alternative employment.

15. I regret to report that the status-of-mission agreement still has not been signed. However, the final issues regarding payments to the Civil Aviation Authority of Nepal have now been resolved and a memorandum of understanding between UNMIN and the Civil Aviation Authority of Nepal governing the payment of services rendered to UNMIN was signed on 15 May. The status-of-mission agreement has to be approved by the Cabinet before it is signed on behalf of the Government of Nepal.

IV. Activities of the United Nations Mission in Nepal

A. Arms monitoring

16. The UNMIN Arms Monitoring Office has continued to monitor the compliance of the Nepal Army and the Maoist army with the Agreement on Monitoring the Management of Arms and Armies. This task has been carried out with a declining proportion of the authorized strength, since 22 arms monitors left the Mission between 10 April and 30 June and were not replaced, in view of the imminent end of the UNMIN mandate. Of the 155 arms monitors currently in place, 65 will end their tour of duty by mid-July. As a result, 90 arms monitors will remain in the Mission, able to operate beyond 23 July, should the current mandate be extended.

17. As part of its downsizing plan, the Arms Monitoring Office has reorganized its deployment from the original five sectors to three — East (Biratnagar), Central (Kathmandu) and West (Nepalgunj) — in order to maintain effective monitoring with the smaller arms monitoring team until the end of the current mandate. By mid-July, these sectors will in turn be disbanded and all operations other than the round-the-clock surveillance of the weapons storage areas will be conducted by mobile teams from these sectors and from the headquarters of the Arms Monitoring Office in Kathmandu. This process is designed to ensure continuity of operations

with the available resources until the end of the current mandate and beyond it, if requested, for a limited period of time. The restructuring also involved the disbanding of the joint monitoring teams in all sectors as from 30 May.

18. The Joint Monitoring Coordinating Committee, chaired by the Chief Arms Monitor, has continued to be an effective mechanism for the implementation of the Comprehensive Peace Agreement and the Agreement on Monitoring the Management of Arms and Armies. The two Vice-Chairpersons, who are senior officers from the Nepal Army and the Maoist army respectively, have continued to cooperate closely on decision-making, exchanging information, confidence-building measures and resolution of disputes. As at 20 June, the Committee had held 77 meetings. From 24 April to 30 June, 17 meetings were held during which consensus decisions were made on four cases submitted to the Committee. In addition, several bilateral meetings have been held to ensure prompt implementation of the Committee's decisions.

19. At its 73rd meeting, the Committee discussed the reports connected with the death of a Kathmandu businessman as a result of severe beating by Maoist army personnel in the main cantonment site in Chitwan district. The Committee agreed by consensus that that act was a serious violation of the Agreement on Monitoring the Management of Arms and Armies. UNMIN issued a statement strongly condemning the killing and calling on the Maoists to cooperate fully with the police to ensure that all those responsible for ordering or carrying out the abduction or killing are apprehended and punished in accordance with the law. A Judicial Investigation Commission was established by the Government to investigate the killing and UNMIN is cooperating in providing assistance on certain aspects of its inquiries (see also para. 55).

20. The Arms Monitoring Office has conducted a full audit of Maoist army weapons stored at the seven main cantonments and used for perimeter security at all 28 main and satellite sites, as well as those held by the Maoist leadership security detachment in Kathmandu. This exercise included inspection and renewed bar-coding and the classification of different categories of weapons according to serviceability. The findings of the assessment will be available as a resource for future decisions of the special committee provided for in the Comprehensive Peace Agreement and the Interim Constitution to supervise, rehabilitate and integrate the personnel of the Maoist army when this is reconstituted by a new government.

B. Mine action

21. Since January 2007, the UNMIN Mine Action Unit has supported the Nepal Army and the Maoist army in fulfilling their obligations under the Agreement on Monitoring the Management of Arms and Armies. The Unit has completed the destruction of all improvised explosive devices at Maoist army cantonment sites. Over 7,250 kilograms of explosive items including 14,682 improvised explosive devices have been destroyed at nine locations.

22. The Mine Action Unit has also been working with the Nepal Army in developing a national mine clearance capacity, so that the 53 anti-personnel minefields laid by the Nepal Army during the civil conflict can be cleared, as required by the Comprehensive Peace Agreement. As at 20 June, 80 personnel of the Nepal Army Directorate of Engineers had been trained, four minefields had been

fully cleared, two partially cleared, and a further two were close to completion. Good progress has been made in the development of the Nepal Army mine-clearance capacity, although continued support is needed to ensure that the Nepal Army has the capacity to fulfil its commitments under the Comprehensive Peace Agreement.

23. UNMIN, in conjunction with the United Nations Resident Coordinator, has been consulting with government authorities to ascertain their intentions regarding the continuation of United Nations mine action support beyond the end of the Mission's current mandate. The United Nations stands ready, if requested by the Government of Nepal, to continue to provide support on management, coordination and operational matters to ensure that the landmine problem is addressed.

C. Electoral support

24. On 8 May, the Election Commission announced the final results of the Assembly election held on 10 April for 575 of the 601 Assembly seats. Subsequently, the Commission issued a directive to the five Assembly members who had won seats in two constituencies in the first-past-the-post segment of the polls to resign from one of the constituencies by 7 June. The Commission then announced that by-elections would be held in the five remaining constituencies, provisionally in October, after the end of the monsoon season. The Election Commission has published a compendium of the Assembly election statistics and has issued its annual report.

25. By 31 May, 12 election-related complaints, all concerning the first-past-the-post segment, had been filed with the Constituent Assembly Court. Most complaints allege that "booth capturing", or irregularities at specific polling stations, had affected the election results. The Constituent Assembly Court has up to three months to deliver a verdict. As at 20 June, two winning candidates had been issued with Interim Orders (which are provisional and can be appealed) that precluded them from being sworn in and participating in the work of the Assembly. In two cases Interim Orders were denied. The Court still has to present its final judgements on all the cases.

26. The Election Commission held an evaluation workshop for the 240 chief returning officers and returning officers on 18 May. The event, attended by the UNMIN Electoral Assistance Office, provided an opportunity for the returning officers both to discuss the nationwide election process and to present recommendations for the conduct of future elections. An evaluation workshop for 75 Election Commission district electoral officers was held on 4 and 5 June, in which the Electoral Assistance Office also participated. Participants in both workshops concluded that the Electoral Assistance Office had played a positive role, especially in terms of increasing the visibility of the Electoral Commission and enhancing public confidence in the electoral process at the district level.

27. The Electoral Assistance Office conducted debriefings of the UNMIN District Electoral Advisers, in the regional headquarters at the end of April and in Kathmandu on 12 and 13 May, with the participation of Election Commission counterparts and representatives from the headquarters of the United Nations Volunteers in Bonn. The final debriefing of the regional electoral advisers and headquarters advisers was held in Kathmandu on 21 May. Conclusions,

recommendations and lessons learned from the various consultations were included in the final report of the Office, which closed on 31 May.

28. During the period under review, I received the final assessment report submitted by the Electoral Expert Monitoring Team following its last visit to Nepal from 5 April to 8 May 2008. The report provided an overall positive technical assessment of the electoral process. The assessment, based on information gathered from a broad representation of stakeholders, covered various aspects of the process such as electoral management, the legal framework, support to the media, and the political and security situation. In its concluding remarks, the Team recommended that several issues in such areas as voter registration and the legal framework needed to be addressed in the future.

D. Civil affairs

29. The UNMIN Office of Civil Affairs has noted that since the Assembly election there has been a gradual increase in criminal activities by armed groups, notably abduction for ransom, extortion, and the detonation of improvised explosive devices, mainly in the central and eastern Tarai. UNMIN has received reports of 270 incidents, involving 41 deaths, 47 abductions and 44 detonations of improvised explosive devices, recorded in the two months after the election.

30. The increase in armed group activities is attributed to a number of interconnected factors, among them the withdrawal of police forces deployed during the electoral period, the emergence of new armed groups encouraged by the absence of effective policing, the difficulties of controlling the cross-border movement of armed groups and criminal elements, a resurgence of protest campaigns to press for the fulfilment of Madhesi demands, and efforts to oppose increased Maoist and YCL activities in the Tarai.

31. After an initial calm in the first week after the poll, violent activities attributed to YCL and other Maoist cadres also increased, YCL continuing its quasi-security activities. These have included the operation of parallel administrative structures, unofficial "law enforcement" actions, influencing the process of application for and granting of government tenders, and physical assaults and intimidation against supporters of rival parties, journalists and others. In recent weeks, NC, UML and MPRF have either established youth wings or issued instructions to their own youth wings, allegedly to counter the perceived threat from YCL, which may lead to an increase in confrontations among these groups.

32. Land-related conflict has long been a complex problem, further exacerbated by the seizure and redistribution of land and property by the Maoists during the armed conflict. In the Far West and Mid-West regions, protests by landless people have recently increased, while the return of agricultural land confiscated or occupied during the conflict has been a major issue in the negotiations among the political parties. The Mission's analysis of local conflicts indicates a need to broaden the agenda beyond land return to the adoption of comprehensive land reform policies which would take into account the productivity of arable land and the need to provide systemic solutions to the plight of landless people, some of whom are now the beneficiaries of confiscated lands.

33. Following the Assembly election, the Office of Civil Affairs shifted the focus of its work from monitoring and reporting on election-related violence to working more closely with national institutions and the United Nations country team with a view to enabling continuity of its work. This process has included cooperating with the Ministry of Peace and Reconstruction on revising the terms of reference of the local peace committees, which it was envisaged would be set up in the districts to monitor the Comprehensive Peace Agreement. UNMIN teams have been working with local administrations and civil society at the district and sub-district levels helping to build relations between Government actors and local groups, in particular historically marginalized groups.

34. In each region UNMIN has undertaken various initiatives to help to address local-level challenges to the peace process through its good offices, in partnership with relevant national institutions and United Nations agencies. These partnerships seek to ensure that support for these initiatives will endure beyond the current UNMIN mandate.

E. Gender, social inclusion and child protection

35. The work of the Gender Affairs Section has continued to focus primarily on the Assembly and the role of its elected women members. Approximately one third of the 575 members of the Assembly are women, making Nepal fourteenth out of 135 countries ranked according to the number of women in their elected national parliaments. The Section's regional teams continued to advocate women's participation in political life. They interacted with the women Assembly members both to assist in confidence-building and to raise awareness on policy issues to be addressed by the Assembly, notably women's rights and the inclusion of women's concerns in the Constitution-drafting process. The teams have sought to encourage the establishment of networks of local women's groups to ensure that the Assembly is informed of major issues of concern in the districts. They have also continued to provide technical assistance to a number of organizations on strategies concerning policy-making on women's issues.

36. With regard to the drawdown of the Mission, the Section identified a number of issues to be addressed by other partners, in particular the United Nations country team. Such issues entail facilitating women's political empowerment and engagement in the Assembly process as well as support and facilitation for the inclusion of women, especially those from historically marginalized communities, in local peacebuilding efforts.

37. The Social Affairs Section analysed the Assembly election results in terms of the representation of historically marginalized groups. As reported previously, these groups — Dalits, Janajatis, Madhesis and religious minorities — are represented in the Assembly in greater numbers and higher percentages of the membership than in any other national elected body in Nepal's history. However, Dalit and Janajati populations are underrepresented compared to the size of their populations, and Janajati groups have raised concerns about the lack of representation from each of the acknowledged 59 Janajati groups. They have cited this lack of full representation in the Assembly as a violation of the agreement of 7 August 2007 between the Government and the Nepal Federation of Indigenous Nationalities, and

have pressed for the 26 Assembly members to be nominated by the Council of Ministers to include members of communities not otherwise represented.

38. Social Affairs Officers in the five regions undertook field missions in 15 districts where they met with community members and organizations representing historically marginalized groups. Their interlocutors expressed general support for the election results, noting that the inclusive Assembly should ensure that their interests are represented in the drafting of the new Constitution. UNMIN has supported efforts of local and national-level non-governmental organizations to promote awareness among these groups about the Constitution-drafting process and its implications.

39. Social Affairs Officers have continued to meet with communities and local, regional and national-level organizations representing historically marginalized groups to monitor the peace process issues relevant to these groups. Their findings indicate that these communities are concerned about their representation in decision-making processes at all levels; increased employment opportunities, especially for youth; improved food security and provision of basic services such as health care; proper implementation of legal provisions deterring discriminatory social practices; and solutions to issues of landlessness. The Section has continued to work in close coordination with the Office of the United Nations High Commissioner for Human Rights (OHCHR) and other relevant United Nations country team partners regarding information on historically marginalized groups and their participation in the peace process at all levels, and is conveying to those partners information that can contribute to their future work to promote social and political inclusion.

40. The Child Protection Section monitored the situation of children in Maoist army cantonment sites as well as those informally released from cantonments. On 12 May, the Government, the Maoists and the United Nations met for the first time to discuss measures for the discharge from the Maoist army of disqualified personnel in addition to children. The Maoists stated that discharge will not take place before the formation of a new government, although the Comprehensive Peace Agreement requires their immediate release. The Government and the Maoists agreed to hold a subsequent bilateral meeting on this issue, which has not yet been held.

41. In conjunction with OHCHR and the United Nations Children's Fund (UNICEF), the Section continued to monitor the impact of violence in the Tarai on children's lives. Such violence claimed the life of a 12-year-old boy who was killed in a bomb explosion for which the Akhil Tarai Mukti Morcha claimed responsibility. Other groups in the Tarai planted bombs in schools and clinics that injured children, and there were a number of reports of kidnapping of children, some linked to the political affiliations of their families.

42. The delay in the release of children from cantonments poses several challenges to the peace process. Furthermore, many children and young people who were previously involved in the conflict have been left without much recourse. There is an urgent need to direct their energies towards constructive activities. In May, the Section interviewed more than 100 children (older than 12 years of age) from different backgrounds across Nepal about their expectations. Employment was a widespread concern, many hoping that they would be able to find work in Nepal rather than having to migrate.

F. Political affairs

43. The UNMIN Political Affairs Office continued to monitor and analyse the political situation in the country and assist the Mission leadership in its efforts to support the peace process. UNMIN political affairs officers continued to meet regularly with political stakeholders, including government officials, representatives of political parties and civil society organizations as well as regional and international actors. The activities of small militant groups — both armed and unarmed — and their potential to disrupt the peace process were monitored. The Office continued to assess the status of implementation of the Comprehensive Peace Agreement as well as other pertinent agreements. The Office provided briefings to the United Nations country team and meetings of the wider international community. It is closely following the post-election dynamic within and between the political parties as well as the evolving role and impact of historically marginalized groups on national politics. The Office has observed the initial proceedings of the Assembly.

G. Public information and outreach

44. During the reporting period national and international media focused in particular on the inaugural session and subsequent meetings of the Assembly, the negotiations between political parties on government formation and the departure of former king Gyanendra from the Narayanhiti Palace after an address to the media. The possible future role of UNMIN was also a subject of media attention.

45. The first session of the Assembly on 28 May refocused the attention of the international media on Nepal after the election of 10 April. I issued a statement congratulating the people of Nepal on the historic convening of the Assembly. My Special Representative gave numerous briefings and interviews regarding the conduct of the election and the remaining challenges in the peace process.

46. UNMIN public information products continued to focus on the post-election activities of the Mission and the challenges to the peace process. They included a radio programme broadcast in six languages, and two issues of the UNMIN newspaper. The public information team prepared a number of products to document the work of the Mission, including a book and several short films about United Nations support to the peace process, and a book on women and the peace process.

47. The public information team also worked closely with the Resident Coordinator in planning a public information strategy for the United Nations country team beyond the end of the current mandate of UNMIN.

48. The Translation and Interpretation Unit continued to work closely with the Public Information and Outreach Section, as well as all substantive and administrative sections of the Mission, in order to provide rapid, consistent and accurate translations and interpretation. The Unit oversaw and completed the movement of its workflow manager and machine-assisted translation tool on to a public, password-protected online server. Discussions were undertaken with the United Nations country team regarding the possible transfer of the Unit's capacity to the team at the end of the UNMIN mandate.

H. Safety and security

49. Following the Assembly election, the security situation remained generally calm across the country. In the central and eastern Tarai patterns of violence similar to those that had been seen prior to the election have continued and the police report increased criminal activity. There has been no direct threat against United Nations personnel and property. Coordination and cooperation between the UNMIN Safety and Security Section and the Nepal Office of the Department of Safety and Security remain strong and focused on ensuring that staff members remain vigilant and comply with existing United Nations security and movement procedures.

V. Mission support

50. In anticipation of the end of the mandate, UNMIN Mission Support has developed a number of human resource initiatives to assist international and national personnel to identify future employment opportunities. An inventory of national staff skills has been compiled and made available to the United Nations agencies, funds and programmes in Nepal; training workshops have been organized, open to all Mission staff, to improve computing, interview and report-writing skills; and job centres have been established in Kathmandu and regional headquarters to provide administrative assistance to departing staff. The Field Personnel Division of the Department of Field Support is also reviewing the qualifications of national and international staff who are interested in employment with other field missions, and has deployed a specialist team to the Mission to facilitate the process.

51. Following the departure of the electoral advisers in May and the restructuring of the Arms Monitoring Office, Mission Support has been transporting surplus equipment from the regional headquarters to Kathmandu, and preparations have commenced for the transfer and disposal of assets.

VI. Human rights

52. The human rights situation has not improved since the election, in particular the situation in the Tarai. The resurgence of armed group activity highlighted the weakness of the law enforcement capacity of the police, particularly with regard to protecting the civilian population. At the same time, OHCHR has investigated two cases in which members of armed groups were allegedly extrajudicially executed by police, bringing to at least 18 the number of alleged unlawful killings by police in 2008. In most cases, there has been no serious attempt to investigate the killings. In the case of the seven Maoists shot dead by the security escort of an electoral candidate on 8 April, however, a special investigative commission was established and is expected to submit its report to the Government in July.

53. On 28 May, three people were killed and seven injured when Nepal police opened fire on a violent crowd of protestors in front of the District Administration Office in Kailali. The protest followed the serious assault on a journalist on 27 May by a group of people, including Maoist cadres, for publishing a story that criticized the Maoists. At the time of the protest, journalists and a representative of the Federation of Nepalese Journalists were meeting with authorities inside the District Administration Office. An investigation by OHCHR concluded that the police used

excessive force to control the crowd, and raised concerns that the authorities failed to intervene and arrest those responsible for the assault on the journalist, which occurred in the presence of the Chief District Officer and a local police chief.

54. The election results, combined with uncertainty as to the composition of the future government, appear to have led to an increased reluctance on the part of the police to take action against Maoist cadres implicated in criminal activity and human rights abuses. Despite its leading position following the election, the Maoist leadership has not taken effective steps to stop human rights abuses by YCL and other Maoist cadres. There were numerous reports of such abuses, including threats, physical assault and abductions. They received considerable media attention and political parties, as well as civil society, continued to call on the Maoists to ensure that their cadres respected the law. Where these incidents have been investigated by OHCHR, findings suggest that many relate to the consolidation of Maoist control at the district and, in particular, sub-district levels following the election.

55. In the most serious incident, a Kathmandu businessman abducted by Maoist army personnel on 27 April died early in May as a result of severe beating in the main cantonment site in Chitwan district. Judicial proceedings were initiated against three Maoist army personnel charged with the killing, one of whom, a Brigade Commander, is in pre-trial detention. The Government established a Judicial Investigation Commission to look into the killing, which the Maoists claimed was committed by "low-level cadres" (see also para. 19).

56. The Government has made no progress towards the establishment of transitional justice mechanisms, nor has it taken steps to address impunity. Support by OHCHR to conflict victims included, in Bardiya district, assistance to an association of the families of individuals who disappeared following their arrest by security forces. In that regard, OHCHR submitted 135 disappearance cases to the Working Group on Enforced and Involuntary Disappearances.

57. In connection with the killing by the then Royal Nepal Army personnel of a UML cadre in Dang in 2005 and 36 labourers in Kalikot district in 2002, the Supreme Court issued a directive on 12 May ordering the Government to promulgate legislation to criminalize the excessive use of force by security forces personnel and to compensate any victims of such use of force. The Court also directed the authorities to investigate and prosecute security forces personnel involved in the killings.

58. OHCHR, in consultation with the National Human Rights Commission, is seeking to increase activities to contribute to building the Commission's capacity in a mutually cooperative manner. These activities have included a joint project in the Far West region to address the issues of landlessness, forced eviction and economic, social and cultural rights. In the East region, OHCHR, the National Human Rights Commission and a national human rights organization conducted a workshop for police and health officials to address the problem of detainees' access to medical care in police custody as well as links to cases of torture and ill-treatment.

59. OHCHR will continue to play an important role in the next period, both in the promotion and protection of human rights and in the prevention of violence, especially through its monitoring activities in all regions of the country.

VII. United Nations country team coordination

60. Since the election, the United Nations country team has reviewed both its common and individual agency plans to assess how best to respond to this phase in the peace process. In order for the progress to date to continue, and to ensure lasting results, the next phase in the process will put a premium on successful implementation of concrete development actions that can deliver changes in the daily lives of the people of Nepal who seek a constructive and peaceful future.

61. As anticipated in the United Nations Development Assistance Framework for Nepal 2008-2010, country team members are already supporting the peace process in a number of ways. This support includes assistance to the Election Commission and the electoral process; support to strengthen the National Human Rights Commission and other local institutions; development of a plan of action for the implementation of Security Council resolution 1325 (2000); assistance on statelessness issues in Nepal; advice on the establishment and functioning of the Assembly; assistance to UNMIN with cantonment administration and management of data concerning the arms of both the Nepal Army and the Maoist army, including support for the inspection and the renewed bar-coding of Maoist army weapons; preparation of a discharge strategy and reintegration assistance packages for Maoist army personnel verified as late recruits and minors; capacity development assistance to the Ministry of Peace and Reconstruction; notably assistance to the Peace and Conflict Management Committee; support to the management of the Government's Nepal Peace Trust Fund; and food assistance to more than half a million conflict-affected people, including former internally displaced persons.

62. A country team peacebuilding support strategy for Nepal is currently in preparation to add greater detail to the outline of the United Nations Development Assistance Framework, and to ensure that the country team's work in this field remains coherent and focused on areas of particular comparative advantage of the United Nations. The country team will be exploring with the Government and other key stakeholders the details of such a strategy with attention to three key areas:

(a) State transformation, including support for the Assembly and public participation and consultation in the Constitution-making process, policy advice on options for State restructuring, and support for the inclusion of historically marginalized groups in State institutions. The anticipated Peace and Rehabilitation Commission could also be assisted, for example through helping to strengthen government coordination on peace support, including the Nepal Peace Trust Fund, and a stock-taking exercise and assistance to the Government and the donor community in the articulation of a peace and development framework;

(b) Recovery, including accelerating delivery of basic services to conflict-affected and disadvantaged groups through, inter alia, food for work, school feeding, initiatives focusing on women's and children's special needs, and agricultural recovery. Targeted initiatives would focus especially on youth, for example, through employment generation for youth in conflict-affected and vulnerable areas;

(c) Conflict prevention and reconciliation, including support for cantonments, for reintegration, for internally displaced persons, for children affected by conflict, and for mine action. If requested, the country team will assist transitional justice initiatives by, inter alia, providing technical advice on such

issues as compensation and reparations for victims of the conflict and support for paralegal committees. Support for local peace structures aimed at reconciliation is also under discussion.

63. The United Nations development and humanitarian mechanisms are gearing up to respond to heightened expectations of their role in the peacebuilding process. Looking ahead, there will remain a need to complement development activities with focused humanitarian action that targets socially marginalized groups as well as households that are vulnerable to a variety of risks. The country faces multiple and complex risks and challenges, which require an integrated and coherent response of the kind the United Nations is uniquely placed to design and deliver.

VIII. Observations

64. In my last report, I said that I did not anticipate a further extension of the mandate of UNMIN, but that my Special Representative and the Resident Coordinator would be in discussion with the new Government once it was formed regarding any assistance it might request for the completion and consolidation of the peace process and for the long-term development of Nepal. The continuing delay in forming a new Government and the political disagreements among the political parties that have surrounded it have not allowed such discussion to take place. However, my Special Representative has been made aware of a broad consensus among the political parties and civil society that a continuing United Nations political presence and monitoring of the management of arms and armed personnel remain important to the completion of the peace process, and in particular to a successful transition regarding the integration and rehabilitation of Maoist army personnel.

65. As noted in paragraph 9 above, the 25 June Agreement contains a consensus decision within the Seven-Party Alliance to request the United Nations to continue for a further six months "its current work of monitoring the management of arms and armies". After a considerable delay caused by the post-election political complications, on 8 July I received a letter from the Permanent Mission of Nepal transmitting the formal request of the interim Government for the continuation of UNMIN "at a smaller scale to engage itself in the remainder of the mandate for a period of another six months from the date of expiry of its current mandate on 23 July 2008". The letter also states: "The remainder of the mandate relates to the ongoing work on monitoring the management of arms and army personnel in line with the agreement among political parties and assisting in implementing the agreement on the management of arms and army personnel as per their understanding."

66. In my last report I also observed that the completion of the peace process remains a challenge, notwithstanding the landmark achievement of the election of the Assembly as the centrepiece of Nepal's political transition. The difficulties of the post-election negotiations have confirmed this, and have displayed the lack of trust between those who constituted the two sides to the original peace process and whose cooperation has been essential to its progress. The CPN (M) feels that its major partners, NC and UML, have been reluctant to recognize its relative victory, and have reopened agreements reached before the 10 April election. The other parties remain mistrustful of CPN (M), while the Maoist army remains and YCL

continues to act outside the law, and believe that it is reluctant to share power according to the election outcome. The Madhesi parties, and other smaller parties, object to their exclusion from a process of decision-making dominated by the three largest parties and feel that their issues have not been given due attention in the post-election negotiations. Although all parties state that they are committed to cooperation in the Constitution-making process, at the time of writing it is far from certain that the new Government will include all major political forces.

67. The issue of the armies has remained of particular difficulty. The 25 June Agreement has set a new framework and time frame for the issue to be addressed, but it has not resolved the disagreements over the extent and manner of integration of Maoist army personnel into the security sector or the need for broader reform and democratization of the security sector.

68. UNMIN will be well placed to assist in the management of arms and army personnel in accordance with the 25 June Agreement. I do not believe that current monitoring arrangements should be necessary for a substantial further period, if the reconstituted special committee that will be in charge of the process takes early decisions which can, for example, reduce the requirement for round-the-clock surveillance at eight weapons storage areas. Previous lack of progress on implementing the provisions of the Comprehensive Peace Agreement regarding the future of Maoist army personnel and the action plan for democratization of the Nepal Army was clearly related to reluctance to address these issues in the period before the Assembly election. The key requirement now is not the continuation of monitoring arrangements so much as the transition to a durable and permanent solution. The United Nations' monitoring role must thus be understood in the context of immediate efforts to reach decisions on the underlying issues, which the United Nations will assist as requested. I believe that monitoring of arms and armed personnel should continue to be provided within the framework of a special political mission which can continue to offer the necessary support for the completion of the peace process.

69. However, the letter I have received from the interim Government lacks the clarity that is required for me to recommend a continuing United Nations presence in the form of a special political mission. I have therefore asked my Special Representative to seek further clarification from the new Government which is expected to be formed soon about the scope of support it would like to receive from UNMIN before I submit my formal recommendation to the Council on the future of UNMIN. Should this matter remain unresolved by the time the Council considers the present report, I would recommend a one-month extension of UNMIN in order to give the new Government time to respond to my request.

70. If however matters are clarified and a six-month extension of the political mission is mandated, the Council should receive a report after three months on progress and further possible downsizing of the Mission since, as indicated above, it should be possible to reduce the requirement for monitoring arms and armed personnel once the special committee begins its work. Financial implications will be absorbed, to the extent possible, within the 2008 budget. Any additional financial needs, if necessary, would be presented in the second half of 2008 to the General Assembly.

71. UNMIN has meanwhile drawn up a contingency plan for a radically downsized mission which could respond to these requirements. As noted above, the Electoral

Assistance Office has already been closed. The Arms Monitoring Office would be maintained, initially at the strength of 90 arms monitors, which is less than half the previous authorized strength but could sustain monitoring obligations under the Agreement on Monitoring the Management of Arms and Armies for a limited period, on the assumption that these would further diminish over time as the special committee commenced its work. The Office of Civil Affairs would also be closed at the end of the current mandate as would all regional offices. The Gender, Social Affairs and Child Protection Sections would be closed, except for the retention of two Child Protection Officers until minors have been discharged from the cantonments. The political staffing would be dependent on whether, based on the clarification I receive from the Government, it is decided to retain a Special Representative at the head of the mission. The plan would effect a reduction of at least 70 per cent in the substantive staffing of UNMIN.

72. The contingency plan for a downsized UNMIN would require continuing but reduced mission support to substantive components, especially the Arms Monitoring Office, while much of the work of liquidation would proceed in parallel, leaving a much more limited liquidation requirement after the end of the mandate extension. The initial reduction in mission support personnel would be approximately 50 per cent.

73. In conclusion, I would like to convey my sincere appreciation to the members of the Security Council and other Member States for their continued support to Nepal. I would also like to express my gratitude for the dedicated efforts of my Special Representative and his staff and their partner organizations in Nepal.